

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

Final Rulemaking

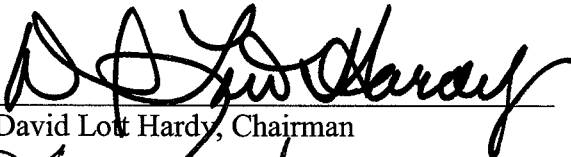
IURC RM #07-02

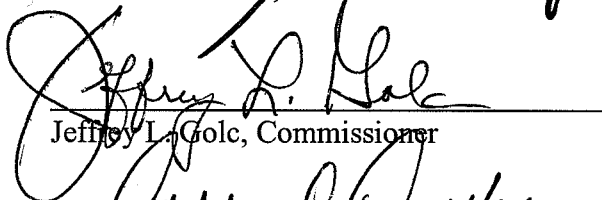
LSA #07-235(F)

Amending 170 IAC 8.5-1-1 Regarding Definitions Used in This Article
and 170 IAC 8.5-3-1 Through 170 IAC 8.5-3-3 Regarding Application
for a Certificate of Territorial Authority for Sewage Disposal Services.

Upon prior publication of notice and a public hearing held on July 26, 2007, at 1:30 p.m., E.D.T. (local time) in Judicial Courtroom 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana, as required by the provisions of I.C. 4-22-2-1, *et seq.*, the Indiana Utility Regulatory Commission, on August 1, 2007, at 2:00 p.m. E.D.T. in Judicial Courtroom 224, National City Center, Indianapolis, Indiana at which time a majority of members of said Commission were present, adopted the foregoing rule.

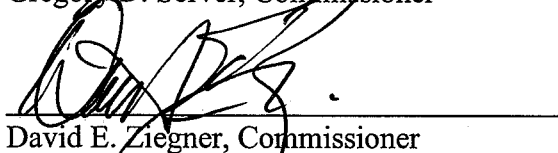
The Secretary is hereby directed to submit the aforesaid rule to the Attorney General and Governor of Indiana, for their approval of same, and thereafter to submit the aforesaid rule to the publisher, Indiana Register.


David Lott Hardy, Chairman



Jeffrey L. Golc, Commissioner


Larry S. Landis, Commissioner


Gregory D. Server, Commissioner


David E. Ziegner, Commissioner

ATTEST:


Brenda A. Howe, Secretary to the Commission

Date: AUG 01 2007

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule LSA Document #07-235(F)

DIGEST

Amends 170 IAC 8.5-1-1 regarding definitions used in this article and 170 IAC 8.5-3-1 through 170 IAC 8.5-3-3 regarding application for a certificate of territorial authority for sewage disposal services. Effective 30 days after filing with the Publisher.

170 IAC 8.5-1-1; 170 IAC 8.5-3-1; 170 IAC 8.5-3-2; 170 IAC 8.5-3-3

SECTION 1. 170 IAC 8.5-1-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-1-1 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-2-1; IC 8-1-2-89

Sec. 1. (a) The definitions in this section, except where otherwise defined, and, where applicable, the definitions set forth in IC 8-1-2-1 shall be applied to these rules, and apply throughout this article.

(b) "Certificate of territorial authority" or "CTA" means the authority for a utility to operate within a specified geographic area.

(c) "Commission" means the Indiana utility regulatory commission.

(b) The word (d) "Customer" shall mean means any:

- (1) person;
- (2) firm;
- (3) corporation;
- (4) municipality; or
- (5) other government agency; which

that has agreed, orally or otherwise, to pay for sewage disposal service rendered by a sewage disposal company, provided that, for the purposes of Rules 15, 16 and 16.1, the word "customer" 170 IAC 8.5-2-3 through 170 IAC 8.5-2-5, the term shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(e) The word (e) "Disconnection" shall mean means the termination or discontinuance of sewage disposal service.

(d) The words (f) "Late payment charge" shall mean means the one-time penalty assessed by a sewage disposal company upon all current bills at such time as they become delinquent.

(e) The word "Commission" shall mean the Public Service Commission of Indiana.

(f) The words (g) "Lateral sewer" shall mean means sewerage pipe owned, operated, or maintained by a sewage disposal company which that is used to transport sewage. but The term does not include service pipe.

(h) "NARUC" refers to the National Association of Regulatory Utility Commissioners.

(i) "NARUC Uniform System of Accounts" means the rules and regulations governing the classification of accounts applicable to a utility as:

- (1) developed by the NARUC; and
- (2) adopted by reference by the commission for Indiana utilities.

(j) "Premises" means a tract of land or real estate, including buildings and other appurtenances thereon.

(g) The words (k) "Service pipe" shall mean means the pipe which that:

- (1) runs from the customer's premises to the lateral sewer; and which
- (2) receives sewage from the customer's premises.

(h) The word "premises" shall mean a tract of land or real estate, including buildings and other appurtenances thereon.

(l) "Sewage disposal company" means any:

- (1) natural person;
- (2) firm;
- (3) association;
- (4) corporation; or
- (5) partnership;

owning, leasing, or operating any sewage disposal service within the rural areas of this state.

(i) The words (m) "Sewage disposal service" shall mean means any utility service whereby liquid and solid waste, sewage, night soil, and industrial waste within the limitations of Rule 2(c) section 2(c) of this rule of any single territorial area is collected, treated, purified, and disposed of in a sanitary manner. and The term includes all of the following:

- (1) Sewage treatment plant or plants.
- (2) Main sewers.
- (3) Submain sewers.
- (4) Local and/or lateral sewers, or both.
- (5) Intercepting sewers.
- (6) Outfall sewers force mains.
- (7) Pumping stations.
- (8) Ejector stations. and all
- (9) Other equipment and appurtenances necessary or useful and convenient for the rendition of such the service.

(j) The words "sewage disposal company" shall mean any natural person, firm, association, corporation or partnership owning, leasing or operating any sewage disposal service within the rural areas of this state. (Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 1; filed Dec 9, 1981, 10:20 a.m.: 5 IR 13; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA)

SECTION 2. 170 IAC 8.5-3-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-3-1 Application for certificate of territorial authority

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 1. Application for Certificate of Territorial Authority (CTA). Whenever a sewage disposal company petitions for a Certificate of Territorial Authority, CTA, either as an initial authority or as an expansion of its authorized territory, it the sewage disposal company shall submit, where appropriate, the following exhibits: sufficiently in advance of the hearing to enable the Commission staff to make a proper review of them so as to avoid any delay in the hearing:

(1) Required for initial applications only are the following:

- (1) (A) Articles of incorporation. Required only for initial applications.
- (2) Legal description of area to be served.
- (3) (B) A legal description of the petitioner's sewage disposal plant site. Required only for initial applications.
- (4) Letter of approval of Environmental Management Board.
- (5) Letter of approval of Stream Pollution Control Board.
- (6) Certificate of approval of Department of Natural Resources.
- (7) Plans and specifications of treatment plant.
- (8) Plans and specifications of sanitary sewers.
- (9) Area maps as outlined in instructions of Rule 18.
- (10) Letter of acknowledgement from owner-operator of any sanitary system within five (5) miles of the company's system that he is familiar with the company's interest to apply for a Certificate of Territorial Authority. In lieu thereof, a

copy of the sewage disposal company's certified letter to the owner-operator informing him of the company's application for a Certificate of Territorial Authority should be submitted together with the signed return receipts. Any other correspondence from such owner-operator relating to the proposal shall be included.

(11) Statement of estimated costs of construction of sewage disposal plant, including and separately as to treatment plant, collection system and pumping plant.

(12) Estimated operating expenses, depreciation and revenue. Required only for initial applications.

(13) Five-year (C) A ten-year feasibility study and pro forma statement. Required only for initial applications: financial statements, including the following:

(i) Proposed user rates.

(ii) Nonrecurring charges.

(14) (D) A personal guarantee by a principal of the corporation for a period of five (5) years from the date a utility provides service to its first customer or receives its CTA, whichever is greater, accompanied by a personal financial statement (See Rule 19 for sample form). Required only for initial applications or as otherwise deemed appropriate by the Administrative Law Judge. under section 3 of this rule.

(2) Required for all applicants, including initial applicants, are the following:

(A) A legal description of the area to be served.

(B) A letter of approval from the:

(i) Indiana department of environmental management; or

(ii) state department of health.

(C) Documents to support approvals that have been obtained from the Indiana department of natural resources, if necessary.

(D) Plans and specifications of treatment plant and sanitary sewers.

(E) Area maps as outlined in the instructions of section 2 of this rule.

(F) A letter of acknowledgement from the owner-operator of any sanitary system within five (5) miles of the company's system that he or she is familiar with the company's interest to apply for a CTA, which should be submitted together with the signed return receipts, as well as any other correspondence from the owner-operator relating to the proposal.

(G) A statement of the estimated costs of the construction of the sewage disposal plant, including and separately as to the following:

(i) The treatment plant.

(ii) The collection system.

(iii) The pumping plant.

(H) As deemed appropriate by the administrative law judge, a personal guarantee and personal financial statement as described in subdivision (1)(D).

(3) A petition for initial authority or expansion of existing territorial authority shall include an original and four (4) copies of the application and the required exhibits.

(4) Instructions on the contents of the required exhibits for a CTA follow are in Rule 18 section 2 of this rule, and sample forms are set out in Rule 19. Rules 18 and 19 follow Commission Order No. 27122 which prescribes the form of CTA applications for sewage disposal service in rural areas in Indiana: section 3 of this rule.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 17; filed Dec 9, 1981, 10:20 a.m.: 5 IR 21; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA)

SECTION 3. 170 IAC 8.5-3-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-3-2 Instructions for exhibits for CTA applications

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 2. The instructions for exhibits for CTA applications are as follows:

(1) Maps shall be as follows:

(A) The area or areas, should shall be shown on a:

(i) flood plain map; and

(ii) county map (if more than one (1) county, separate county maps);

scaled at approximately one (1) inch per mile.

(B) The county map should shall include all:

- (i) roads; and**
- (ii) highways;**
- (iii) streams;**
- (iv) section and lines;**
- (v) township lines; and**
- (vi) range numbers; and**
- (vii) township numbers, including township corner sections should be numbered; (1, 6, 30, and 36).**

The maps may be or be similar to:

General Highway and Transportation Map Prepared by The State Highway Department of Indiana Planning Division In Cooperation with the U.S. Department of Commerce Bureau of Public Roads

(C) The:

- (i) rural areas presently being served by sewage disposal service, if any, shall be colored in green; and the**
- (ii) area requested shall be colored in red.**

(D) Any sewer systems or municipal corporation limits within five (5) miles of the proposed area to be served by this petition shall be clearly shown on this map.

(2) Description of Area— The rural areas shall be outlined and described, including the following:

- (A) County.**
- (B) Township.**
- (C) Sections or parts of sections.**
- (D) Range. and**
- (E) Township.**

(3) Other Maps or Plats If the rural area is subdivided, or planned for subdivision, there shall be maps showing this platting. These maps may be part of the plans, as requested below, showing the sewage collection mains and appurtenances.

(4) Plans and Specifications The plans should show a layout of collection mains showing the size, manholes, the location of the disposal plant, the effluent line, and the stream receiving the effluent. A plan of the disposal plant should show the:

- (A) flow;**
- (B) major functional operations;**
- (C) stages of treatment; and**
- (D) capacity.**

A waiver may be granted by the Engineering Department commission upon request and with justification.

(5) The feasibility Study— This study should include the following:

- (A) Balance sheets.**
- (B) Revenue and operating statements.**
- (C) Cash flow statements.**
- (D) The original cost of the plant if now operating as a public utility, as prescribed in the NARUC Uniform System of Accounts. for Rural Sewage Utilities prepared by the Accounting Department of the Public Service Commission of Indiana;**
- (E) Estimated construction costs of the new plant or additions.**
- (F) The method of financing costs. and**
- (G) Pro forma revenue and expenses by years year for a period of five ten (10) years, including supporting details to pro forma revenues.**

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 18; filed Dec 9, 1981, 10:20 a.m.: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA)

SECTION 4. 170 IAC 8.5-3-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-3-3 Sample CTA application and personal guarantee forms

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 3. Sample CTA Application and Personal Guarantee Forms: (a) The application form is as follows:

STATE OF INDIANA
PUBLIC SERVICE UTILITY REGULATORY COMMISSION
OF INDIANA

APPLICATION OF _____)
FOR A CERTIFICATE OF TERRITORIAL)
AUTHORITY TO RENDER SEWAGE DISPOSAL) CAUSE NO.
SERVICE IN A RURAL AREA IN _____)
COUNTY, INDIANA.)

TO THE PUBLIC SERVICE COMMISSION OF INDIANA UTILITY REGULATORY COMMISSION:

Your applicant, _____ respectfully represents:

1. ~~Application~~ **Applicant** is a corporation organized under the laws of the State of _____, with its principal office in the City of _____, County of _____. (See Note 1) The officers executing this application are authorized to receive notices and communications from the Commission. Applicant has a charter power and authority to engage in and is engaged in operating a sewage disposal service within the rural area of the State of Indiana.

2. Applicant desires to commence rendering sewage disposal service in a rural area in _____ County in Indiana, which rural area is shown on the Map that is marked "Exhibit A" (See Note 2), is attached hereto and is hereby made a part thereof, and which rural area is more particularly described in Item 2 of the Statement which marked "Exhibit B" (See Note 2), is attached hereto and is hereby made a part hereof. Such facilities, or extension of facilities, to provide said service as will be presently constructed, and the location thereof, are described in Item 3 of said "Exhibit B".

3. Applicant represents that it has lawful power and authority to obtain a Certificate of Territorial Authority and to render the proposed sewage disposal service if it obtains a Certificate of Territorial Authority therefor, that it has the financial ability to provide the proposed sewage disposal service, that public convenience and necessity require the rendering of the proposed sewage disposal service, and that the public interest will be served by the issuance to applicant of the Certificate of Territorial Authority hereby sought.

WHEREFORE, Applicant prays that, after due notice and public hearing, the Commission shall grant this application and issue to Applicant a Certificate of Territorial Authority to commence and render a sewage disposal service in the rural area herein described, and shall grant all other proper relief.

Name of Applicant

By _____

President or
Vice-President
(See Note 3.)

(Address of Applicant)

ATTEST:

SECRETARY (See Note 3.)

(Name and address of Attorney)

STATE OF _____)
COUNTY OF _____) SS:
_____)

_____, being first duly sworn on oath deposes and says that he or she is _____ of _____, Applicant herein; that he or she has read the foregoing application and is familiar with the contents thereof; and that the statements therein contained are true to the best of his or her knowledge, information and belief.

(See Note 3.)

SUBSCRIBED and SWORN to before me this _____ day of _____, 19 20 _____.

(See Note 3.) Notary Public

My Commission expires _____

NOTES:

1. If applicant is not a corporation, appropriate changes in the application, including the signature thereto, should be made.
2. If rural areas in more than one county are covered by the application, designate "Exhibit A-Part," etc., or "Exhibit B-Part 1," etc., as applicable.
3. Immediately below each signature the name of the person signing shall be typed in.
4. Commission rules require that 5 copies of this application be filed.

(b) The personal guarantee form is as follows:

PERSONAL GUARANTEE
APPLICANT'S EXHIBIT _____
PERSONAL GUARANTEE OF _____ *

WHEREAS, the undersigned, _____ * is the _____ * of _____, *** and

WHEREAS, he or she is also an officer of _____ ** which is the owner of all the outstanding capital stock of _____ *** and,

WHEREAS, he or she also owns controlling interest in the outstanding stock of _____ **.

NOW THEREFORE, for the purpose of inducing the Public Service Indiana Utility Regulatory Commission of Indiana to issue a Certificate of Territorial Authority to _____ ***, an Indiana corporation, authorizing it to furnish sewage treatment and disposal services in the area described in said Petition, the undersigned does hereby agree and bind himself or herself as follows, to wit:

(1) To operate and maintain the plant and property of the Petitioner, _____ *** in a satisfactory and reasonable manner so as to serve its customers with adequate service as authorized and directed by the Public Service Indiana Utility Regulatory Commission. of Indiana.

(2) To supply, from time to time, sufficient working capital to said Petitioner corporation if and when such capital shall be needed to carry out the guarantee herein set forth.

(3) This agreement shall be in full force and effect and binding upon the undersigned _____ * for a period beginning on the date of service is first rendered or the issuance of the above described Certificate of the Public Service Indiana Utility Regulatory Commission, of Indiana whichever is greater, and shall continue in full force and effect for a period of five (5) years hereafter, after which said agreement shall become null and void.

IN WITNESS WHEREOF, the said _____ * has hereunto set his or her hand and seal this _____ day of _____, 19 20 _____.

STATE OF INDIANA

)

) SS:

COUNTY OF

)

Before me, the undersigned, a Notary Public, personally appeared _____* and acknowledged the execution of the above and foregoing guarantee for the use and purposes therein set forth this _____ day of _____, 19 20 _____.

Notary Public

My Commission Expires:

*Name and position of an officer of corporation making this guarantee.

Name of organization sponsoring the development requiring sewerage **sewage disposal service.

***Name of sewerage **sewage disposal** services corporation.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 19; filed Dec 9, 1981, 10:20 a.m.: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA)